



April 8, 2015

Via <https://foiaonline.regulations.gov>

Records, FOIA, and Privacy Branch
Office of Environmental Information
Environmental Protection Agency
1200 Pennsylvania Avenue (2822T), NW
Washington, DC 20460
e-mail: hq.foia@epa.gov
FAX: 202-482-0800

RE: Freedom of Information Act Request – Communications Between EPA and Dow
AgroSciences Related to Chlorpyrifos

Dear FOIA Officer:

On behalf of Pesticide Action Network of North America (“PANNA”), we hereby request access to the records described below pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) and the pertinent Environmental Protection Agency (“EPA”) regulations, 40 C.F.R. § 2.100 *et seq.*

For the purposes of this letter, “Dow AgroSciences” refers to Dow AgroSciences and any entity related to or acting on behalf of Dow AgroSciences.

The Requested Records

1. Please provide any and all information received from Dow AgroSciences, and correspondence and communications (and references thereto) between EPA and Dow AgroSciences regarding the pesticide chlorpyrifos since September 2007.
2. Please provide any and all reviews, validation, quality control or assurance assessments, analyses, and any other evaluations of any kind conducted or received by EPA on the PBPK-PD model for chlorpyrifos discussed in the Revised Human Health Risk Assessment for chlorpyrifos since September 2007.
3. Please provide any and all documents and communications related to any and all nose-only inhalation studies on chlorpyrifos since September 2007, including but not limited to the following MRIDs: 48139303 and 49119501.

We are interested in obtaining access to the requested records expeditiously, particularly in light of the public comment period on the chlorpyrifos-revised human health risk assessment, which ends April 30, 2015. Accordingly, please release responsive records as they are located so as not to delay release of the requested information. If EPA believes some responsive records may be exempt from disclosure, please segregate and release the clearly non-exempt records right away. Also, please feel free to call to discuss whether we intend that potentially exempt material be released so the agency is not expending resources to compile and review such records.

Exemptions and Discretion to Release Records to Promote the Public's Right to Know

If EPA believes some exemptions apply to the requested records, we ask the agency to exercise its discretion to disclose the records in its discretion. President Obama has directed federal agencies to administer FOIA to err on the side of openness. *See* Memorandum for the Heads of Executive Departments and Agencies Re: Transparency and Open Government (Jan. 21, 2009). To implement this transparency directive, Attorney General Holder issued guidance to federal agencies, which provides:

an agency should not withhold information simply because it may do so legally. I strongly encourage agencies to make discretionary disclosures of information. An agency should not withhold records merely because it can demonstrate, as a technical matter, that the records fall within the scope of a FOIA exemption.

FOIA Mem. for the Heads of Executive Branch Departments and Agencies from Attorney General Holder (Mar. 19, 2009), *available at* <http://www.justice.gov/sites/default/files/ag/legacy/2009/06/24/foia-memo-march2009.pdf>.

Request for a Fee Waiver

We respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107.

PANNA is a non-profit organization that works to replace the use of hazardous pesticides with ecologically sound and socially just alternatives. PANNA works throughout the U.S. and internationally in partnership with consumer, labor, health, environmental and agricultural groups to reduce the indiscriminate and unnecessary use of hazardous pesticides. It defends basic rights to health and environmental quality. PANNA works on behalf of pesticide-affected communities, including farmworkers, farmers, residents of agricultural communities and consumers.

It has no commercial interest in the requested records. Its sole interest in obtaining the records is to analyze the information, incorporate into educational materials and advocacy to EPA, and other governmental agencies, and disseminate the information along with PANNA's analysis to the public. PANNA is a news media requester in that it actively gathers information on pesticides, turns raw information into reports and expert analysis and disseminates the information and analysis to the public. Accordingly, only duplication costs could be charged for this request.

PANNA asks for a fee waiver because "disclosure of the information is in the public interest, because it is likely to contribute significantly to public understanding of these operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(iii). This request concerns a matter of over-riding public importance. Exposure of people, other fields, and wildlife to chlorpyrifos is an issue of heightened public interest. The public has been demanding protections for children, bystanders, and endangered species from chlorpyrifos and other dangerous organophosphate pesticides for decades and has advocated for buffers to minimize exposures. Disclosing the requested records will further the public's right to know about EPA's responsiveness to these public demands and will enhance the public's ability to participate in regulatory processes on these issues. The public has a right to know the basis for actions related to chlorpyrifos and the extent of communications with interested industry groups. Daylighting this information will contribute greatly to public understanding of the operations of EPA on this public policy matter.

Moreover, PANNA has both the expertise to analyze the requested records and the ability to disseminate the information and its analysis to the public. PANNA staff include experts with Ph.Ds in insect ecology, agronomy and soil ecology, and developmental biology and public policy experts. It has published numerous reports on pesticide-related health effects and agro-ecological methods of crop production. PANNA regularly reviews government reports of pesticide use (CA DPR and U.S. EPA), pesticide residue data (USDA), illness reporting (CA DPR), and health trends and pesticide body burden (CDC). It has analyzed and used the data in reports (e.g., *A Generation in Jeopardy*; *Chemical Trespass*; *Nowhere to Hide*) and in publicly accessible and searchable data-driven websites (www.whatsonmyfood.org and www.pesticideinfo.org). PANNA regularly shares information on its web properties, which garner significant monthly visits (www.panna.org: 35k, www.whatsonmyfood.org: 11k, www.pesticideinfo.org: 57k). It also disseminates its analysis and data to 120,000 online activists distributed throughout the country via email weekly action alerts, and to an additional 25,000 activists through bi-weekly distribution of blogs written by PANNA experts. In addition, PANNA shares information and analysis through social media platforms, particularly Facebook (25,000 followers) and Twitter (5,000 followers). Additionally, PANNA, along with NRDC, filed a petition with EPA in 2007 to ban chlorpyrifos and has subsequently submitted extensive comments on that petition and other EPA chlorpyrifos regulatory action.

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PANNA is eminently qualified and able to analyze the requested records and disseminate the information on the important issue to the public. Accordingly, it is entitled to a fee waiver.

If you find that this request is unclear in any way, please do not hesitate to call me to clarify the request or otherwise expedite and simplify your efforts to comply. I can be reached at (206) 343-7340 ext. 1032.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Baca', with a stylized flourish at the end.

Matthew Baca
Attorney for Pesticide Action Network
of North America